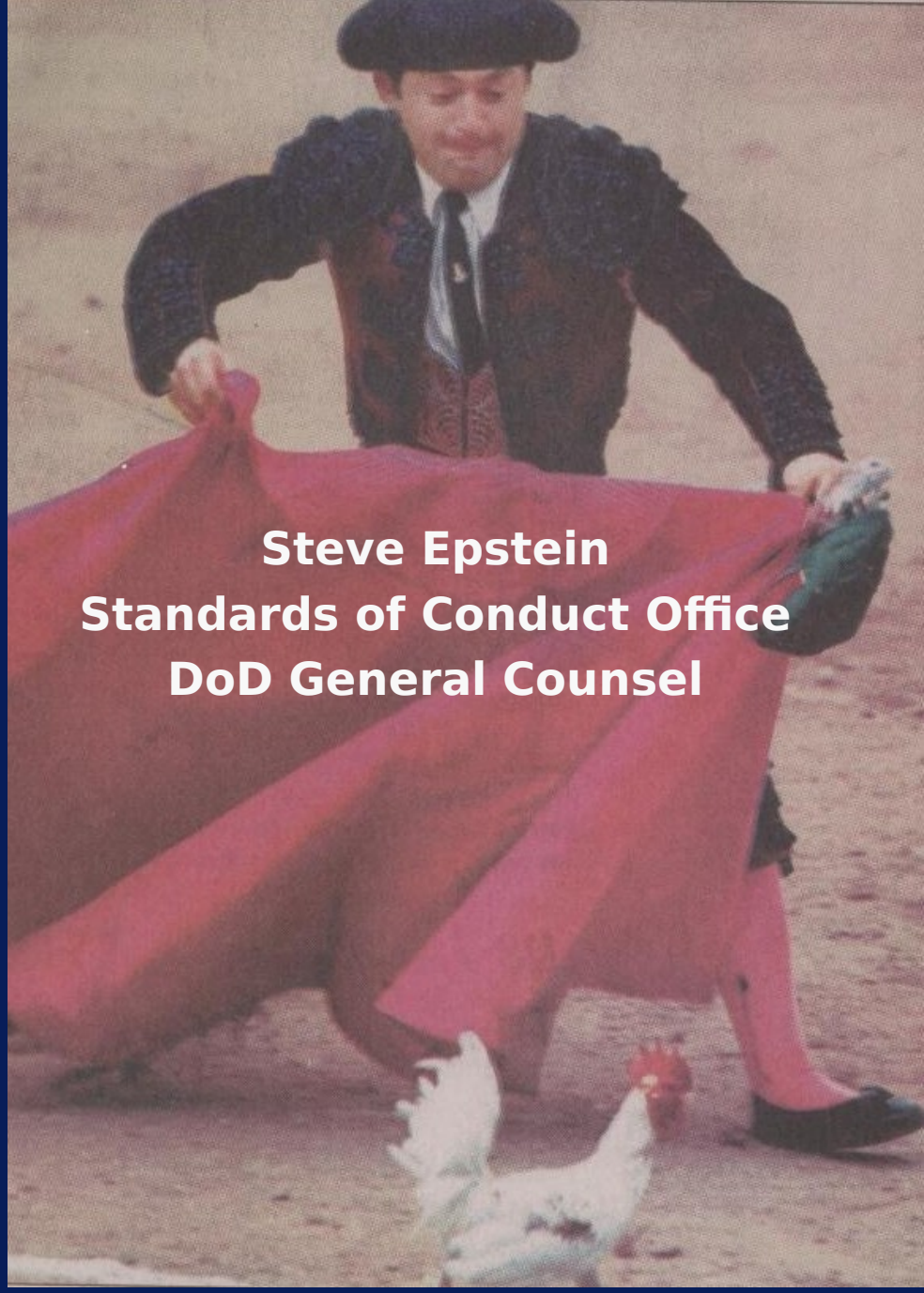
Relations with Non-Federal Entities



Steve Epstein
Standards of Conduct Office
DoD General Counsel

Why Non-Federal Entities?

- SJA's tell me:
  - Toughest issues
  - Lot's of issues

  Expanded presentation to 3 hours

Goals of Presentation

- Introduce chapter I in deskbook
- Introduce framework for analysis
  - (Where do I start???)
- Tackle common problems together

Ground Rules

- Ask questions
- Relate your experiences (successful and otherwise)
- Don’t throw hard objects at the instructor

What is an NFE?

Any organization or individual other than the U.S. Government.

- Charities and not-for-profit groups
- Professional associations
- Local and state governments
- Spouses' clubs
- Commercial enterprises

Examples of NFEs

- AUSA, Navy League, Air Force Assoc
- Spouses' clubs
- USO
- Military relief societies
- State and local governments
- American Red Cross

What do NFEs Want?

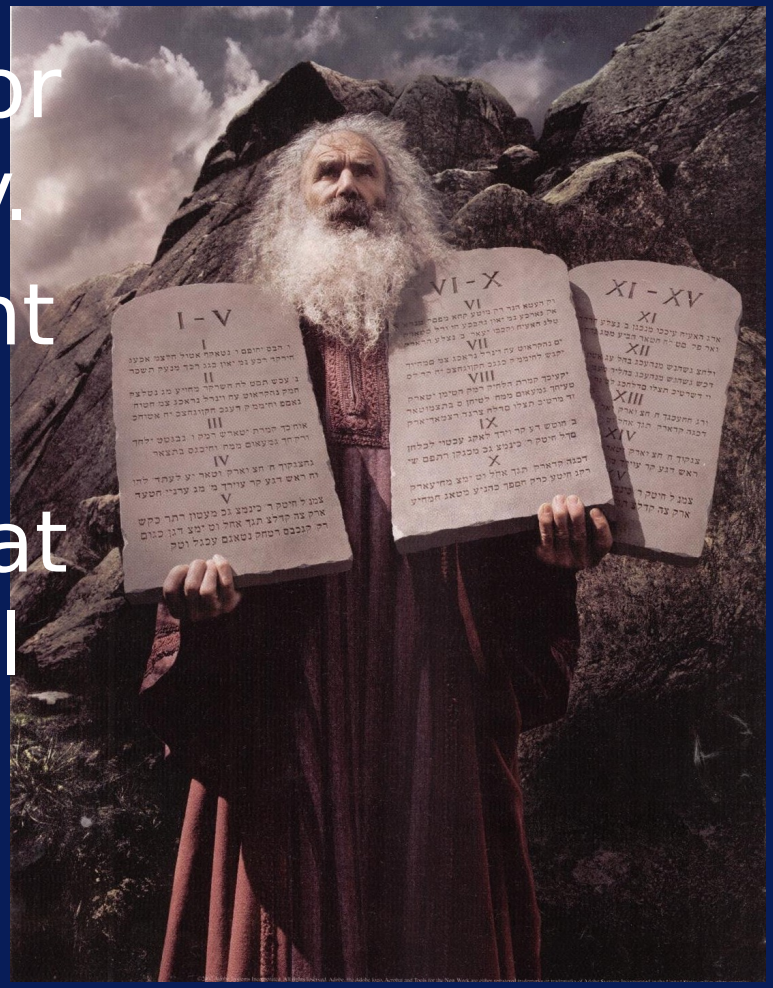
- Government property (things)
- Government personnel
- Use of Government office
- Official endorsement
- Information

Deskbook

- References
  - Use of Government resources
  - Preferential treatment
  - Conflicts of Interest
- Military Department guidance
- Internet locations of guidance

Principles

- Use Gov't property for official purposes only.
- Preferential treatment prohibited
- No official actions that conflict with personal financial interests



Use of Gov't Resources

- Government resources, time, or equipment may not be used for unauthorized purposes (31 U.S.C. 1301)
- (Teaching point: It's the taxpayers' money, stupid!)

Authorized by Statute

- Statutory authorizations (page 5)
- DoD Authorization Act

Military Relief Societies

- Authority to endorse and assist in fundraising

Private Organizations on DoD Installations

- DoDI 1000.15 imposes requirements
- No special privileges (JER applies)
- Organizations must indicate they are not official
- Require approval by installation commander

Innovative Readiness Training

- DoD 1100.20
- Must fulfill valid training requirement
- May not compete with private enterprise
- Examples: construction and medical

Official Communications

- JER 3-208 permits use of official channels to notify DoD personnel of events of common interests to the DoD personnel.
  - No endorsement!
  - No sales pitch!

Official Speakers

- Marriage of JER and Public Affairs Regulations
  - DoD 5410.18
  - DoDI 5410.19

Official Speakers

- Public affairs guidance
  - Views reflect Government policy
  - Participation may not appear to endorse contrary views
  - Review and clearance
  - If confrontation, no participation
  - No endorsement

Official Speakers

- Public Affairs Guidance (cont.)
  - No politics
  - No participation in events that have restricted admission policy
  - No participation with groups that have restricted admission policy

Official Speakers

- JER Requirements (3-211)
  - Public affairs or community relations
  - Appropriate for DoD association
  - Event is of interest or benefit to DoD or community
  - Willing and able to provide comparable support to similar organizations
  - No interference with official duties
  - Not barred by statute or regulation

Official Speakers

- JER requirements (cont.)
  - Admission:
    - ✓ Free
    - ✓ Covers costs of event only
    - ✓ Covers costs of portion of event in which DoD participates
    - ✓ Exceeds costs of event, but is "incidental to the event"

Official Speakers

- JER requirements (cont)
  - Fundraisers: (non-profit organizations) May give official policy speech
    - ✓ No endorsement
    - ✓ No solicitation

Logistical Support

- JER 3-211: Heads of DoD organizations and commands may provide logistical support if:
  - Public affairs or community relations
  - Appropriate for DoD association
  - Event is of interest or benefit to DoD or community
  - Willing and able to provide comparable support to similar organizations

Logistical Support (cont.)

- No interference with official duties
- Not barred by statute or regulation
- Admission:
  - Free
  - Covers costs of event only
  - Covers costs of portion of event in which DoD participates
  - Exceeds costs of event, but is "incidental to the event"

Logistical Support (cont.)

- Admission (cont.)
  - Exceeds cost of event, but is charitable fundraiser not affiliated with CFC
  - Exceeds cost of event, but is charitable fundraiser not in Federal workplace or targeting Federal personnel

Attend Meetings

- Supervisors may authorize attendance by DoD personnel at meetings in an official capacity at Government expense when attendance serves official purpose.

Co-Sponsorship of Events

- Substantive planning or logistical support to an event (JER 3-206)
  - Topic relevant to DoD mission
  - Professional issues
  - NFE approved by DAEO
  - Written agreement
  - Admission is free or covers only cost of event. (Not a fundraiser)

Fundraising by DoD Personnel

- Heads of DoD organizations and commands may permit DoD personnel to raise funds in designated areas (not Federal workplace or GSA property)
  - Personal quarters, entrance to exchange, etc.

Community Support Activities

- Supervisors may grant excused absence to volunteers for community support activities.
  - Voter registration drives
  - Blood drives
  - Emergency support

Professional Associations

- Supervisors may grant excused absence for voluntary participation in professional associations, and support services for papers published in professional journals if it relates to official duties, benefits agency, does not interfere with duties.
  - (Compensation barred by 5 CFR 2635.807)

GSA Buildings

- 41 CFR 101-20.4 permits religious and tax-exempt organizations to use public areas of GSA buildings for cultural, educational, or recreational activities (including fundraising).
  - GSA Building Manager responsible

Endorsements

- Official endorsements are

- (in most circumstances)

Endorsements

- Why prohibited???
  - Give appearance of official certification or approval (FDA)
  - Portray item as public rather than commercial
  - Preferential treatment

Think a women's college won't prepare you for the *real world?*

Candy Crowley '70
Senior Political Correspondent
CNN

Carolyn Aldigé '67
Founder and President
Cancer Research Foundation
of America

Suzanne Patrick '77
Deputy Under Secretary of Defense
for Industrial Policy

First, let's define our terms. In the *real world*, women often earn less than men—sometimes significantly less—for comparable work. They also hold far fewer senior positions in business, and in governing and legislative bodies. That's the *real world*.

Now consider this: while only 2% of all female college graduates attended women's colleges, they make up 20% of the women in Congress and nearly a third of a *Business Week* list of rising women stars. The first woman named as United States Secretary of State? First woman selected as the CEO of a commercial airline? First woman appointed to a presidential cabinet post? All women's college graduates.

The bottom line? Randolph-Macon Woman's College won't just prepare you for the real world.

We'll prepare you to change it.

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In An Uncertain World

They predicted the wave of corporate earnings scandals...the Dow's nosedive...and the explosion in gold and mining stocks.

They led investors to profits as high as 426% while most other investments were plummeting.

Now — in one place and at one time — the world's most successful and celebrated investment experts are gathering again...

...To show YOU how to reap safe, rich profits in today's dangerous world.

For nearly three decades, a small group of very sophisticated investors have come together once a year to get the exclusive recommendations of the world's most insightful and successful experts.

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Templeton

This year, with the investing environment presenting more peril and opportunity than perhaps ever before...and with a stunning roster of legendary investors presenting their views...attendees at this exclusive conference expect some of their richest gains ever.

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JACK RIVKIN, the frequent CNBC guest host and recently retired head of Citigroup's technology venture capital group, will reveal tips and picks you won't find elsewhere.

THOM CALANDRA, editor-in-chief of CBS MarketWatch and widely recognized as one of today's top financial journalists, will unveil the latest, behind-the-scenes market-drivers that his investigations have uncovered.

BERNARD GOLDBERG, author of the best-selling and controversial exposé "Bias," will show how your daily news is distorted, and provide fascinating anecdotes that can be revealed only in this intimate setting.

And that's just the start: Literally dozens of the most successful analysts in value stocks...growth stocks...precious metals and mining shares...tech

In Person!

Chairman of the Joint Chiefs of Staff
GEN. HUGH SHELTON

Shelton

If you want to know what really went on in the corridors of power on September 11...and what the future holds in our dramatic battle against terrorism...you need to hear from the man who was at the helm of America's armed forces during some of the darkest days in our history.

In what promises to be a spell-binding presentation, followed by an intimate question-and-answer session, General Hugh Shelton will provide us with critical information, insights and advice available nowhere else.

DEPARTMENT OF THE ARMY
WASHINGTON, D.C. 20310

DEC 12 2002

REPLY TO
ATTENTION OF:

MEMORANDUM FOR THE ARMY

SUBJECT: Private Organization Membership Campaigns

As the world's premier ground fighting force, the United States Army is well-organized, equipped, and trained to succeed in any mission it is asked to perform both today and in the future, even as an already complex strategic environment continues to adapt and evolve. Many private organizations have been supporters of our success. These organizations tirelessly advocate to help in a variety of ways from shaping defense policy to positively improving the professional and personal well-being of soldiers, civilians, and their families. These private organizations enjoy close, historical ties with the military community. Many are composed largely of serving and retired military and civilian personnel from all of the components. As you know, official Army support to private organizations is strictly regulated (see DoD 5500.7-R, *Joint Ethics Regulation* and AR 600-20, *Army Command Policy)*.

In spite of our best efforts, many soldiers perceive that they are being coerced to join certain organizations and that their membership in such organizations is tracked. Any coercion, real or perceived, is unacceptable and does not befit this magnificent Army. Any practice that involves or implies compulsion, coercion, undue influence, or reprisal in the conduct of membership campaigns is strictly prohibited. This prohibition includes holding repeated orientations or meetings, or counseling those who have decided not to join after being provided information about the organization. It also includes using membership statistics when evaluating an individual's duty performance. While you may discuss the general merits and benefits of joining and participating in private organizations, without showing favoritism for one organization over another, all of your actions must be done within the limits of the standards of conduct principles discussed above.

Senior leaders will ensure that the chain of command implements and abides by the standards of conduct involving private organization membership campaigns so that soldiers' rights are protected. Ethics counselors are available to assist with training regarding these rules.

ERIC K. SHINSEKI
General, U.S. Army
Chief of Staff

Thomas E. White
Secretary of the Army

Endorsements

- Official endorsements permitted:
  - Combined Federal Campaign
  - OPM emergency appeals
  - Military relief societies
  - DoD organizations when fundraising among members for benefit of own members
  - National Guard exception

Endorsements

- Official endorsements (cont.)
  - Result of compliance with agency requirements
  - Recognition of achievement in an agency program
  - Acknowledgement of contribution to DoD (substitute for endorsement)

Requests for DoD Property

- JER 3-211 analysis
- Applicable regulations for motor vehicles, MWR facilities, GSA buildings, etc.

Requests for DoD Personnel

- Innovative Readiness Training (IRT)
- Bands (DoDI 5410.19, encl. 8)
- Menial purposes (ushers, guards) (DoD 5410.18, section 4.2.16)
- Speakers at private fundraisers (next chapter)

Requests for DoD Personnel (cont.)

- Speakers at company meetings
  - Preferential treatment
  - Disclosure of non-public information
  - Special access to DoD officials
  - Extravagant accommodations
  - Overburdening officials

Requests of DoD Personnel (cont.)

- Speakers at for-profit conferences
  - Fees cover costs of event
  - Speaker is incidental to event
  - Notify Military Department SOCO or DoD SOCO to facilitate coordination

Requests for DoD Personnel (cont.)

- Speakers at private meetings of selected groups (clients, brokers)
  - Preferential treatment
  - Special access
  - Non-public information
  - Extravagant hosting

  No! No! No! No! No! No! No! No! No! No!

Requests for DoD Personnel (cont.)

- Speakers at partisan political groups
  - Restrictions on participation in political activities, BUT:
  - May brief political groups on national defense and foreign policy
  - May participate in town-hall meetings with MOCs

Requests for DoD Personnel (cont.)

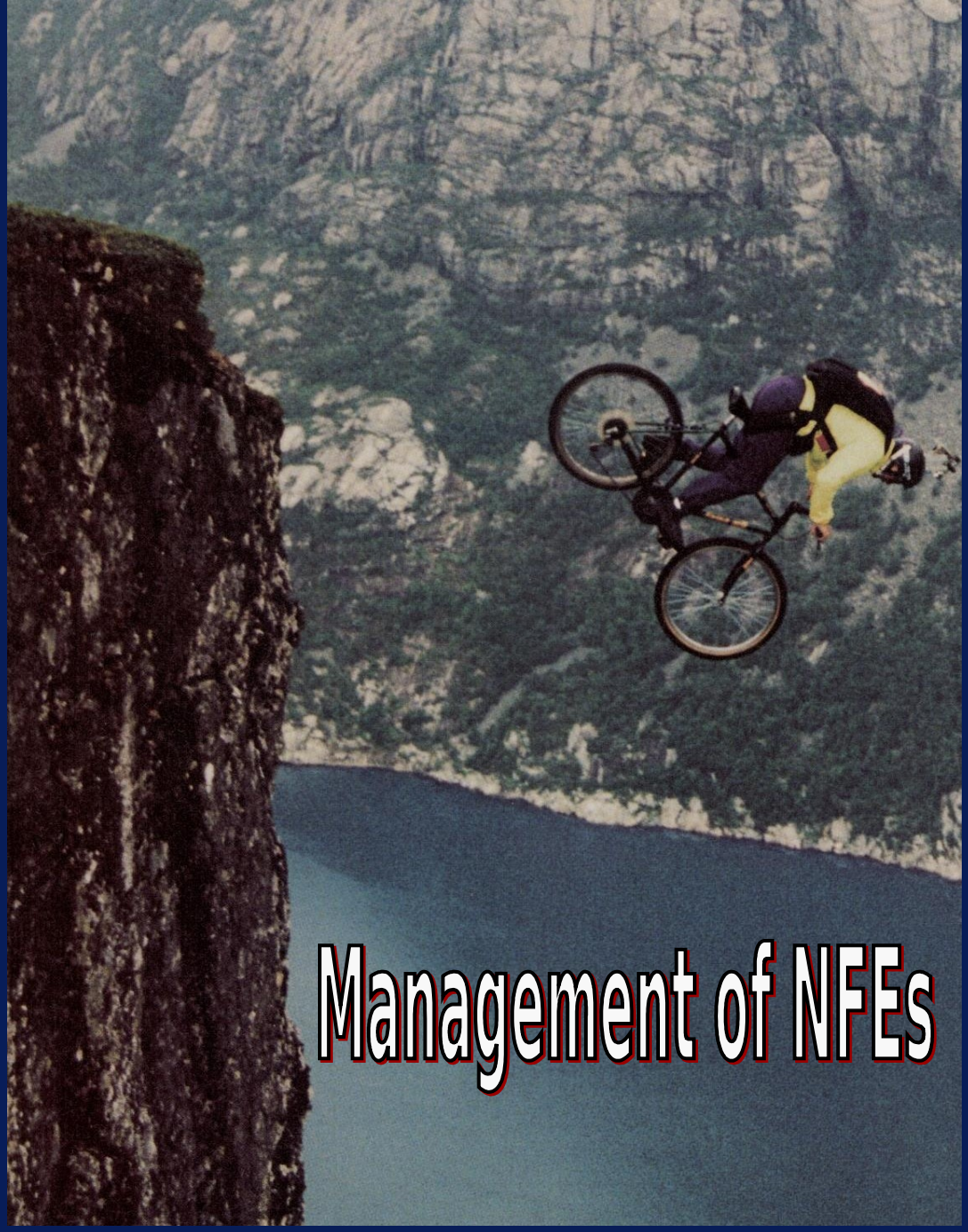
- Participation as “Star Attractions”
  - E.g.: receive award, honorary chair, present award, sit at head table
  - Usually to promote event or give appearance of endorsement
  - Usually fundraisers

Requests for DoD Personnel (cont.)

- Advisors to contractors or vendors
  - Preferential treatment
  - Disclosure of non-public information
  - Conflicts of interest
  - Endorsement
- Use DoD GC memo of May 7, 1999

Requests for DoD Personnel and Property

- Co-sponsorship (JER 3-207)
- Contract


Management of NFEs

Management of NFEs

- Three Options:
  - Management in an official capacity
  - Official liaison
  - Management in a personal capacity

Management in Official Capacity

- Problems:
  - Conflict of Interest (18 U.S.C. 208)
    - Fiduciary duty to NFE
  - Use of appropriated funds to manage NFE
  - Confusing allegiance

Management in Official Capacity

- Prohibited without DoD GC approval
- JER 3-202 lists organizations that may be approved:
  - Relief societies
  - Academy-related associations
  - Entities that regulate medical care
  - Foreign groups that promote understanding

Official Liaison

- JER 3-201: Official liaison when <u>significant and continuing</u> DoD interest
- No conflict of interest
- Official duty
- Limited personal liability
- YES! YES! YES! YES! YES!

Management in Personal Capacity

- Really an issue of outside activities
- FO and GO may not accept compensation for boards of directors
- Potential conflicts of interest
- May not use Gov't resources
- May not use official titles
- Must report on financial disclosure

THE END

DILBERT SCOTT ADAMS
THIS CONCLUDES MY PRESENTATION. ARE THERE ANY QUESTIONS?
HOW DO I GET THE BOREDOM OUT OF MY HEAD?!!
THE FUNNY THING IS THAT I'LL LIST THIS ON MY ANNUAL ACCOMPLISHMENTS.
AIR! I NEED AIR!!!

THANK GOODNESS!